IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

Crl.MC.No. 1073 of 2007()

CC.744/2006 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONERS/ACCUSED:

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1. SUKUMARAN.R.,
AGED 55 YEARS, S/O.RAMAN KUTTY,
RESIDING AT PADIKKAL HOUSE,
CHITTANCHERRY POST,
MELARKODE VILLAGE,
ALATHUR TALUK, PALAKKAD DISTRICT.

2. V.SANTHA KUMARI,
W/O.SUKUMARAN, AGED 52 YEARS,
RESIDING AT PADIKKAL HOUSE,
CHITTANCHERRY POST,
MELARKODE VILLAGE,
ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SMT.JEENA JOSEPH
SRI.G.D.PANICKER

RESPONDENTS/COMPLAINANT - STATE:

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1. STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. K.J.JOHN SINGH, AGED 50 YEARS,
S/O.K.U.JOHN, RESIDING AT KABEER TARRACE,
P.O.MOGRAL, KUMBLA,
KASARAGOD TALUK.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1073 of 2007

Dated this the 2nd day of April 2007

O R D E R

The petitioners - spouses face indictment in a prosecution under Section 138 of the Negotiable Instruments Act. According to the petitioners, they have not received the summons and they had hence not appeared before the learned Magistrate. The learned Magistrate has now issued non-bailable warrants to procure the presence of the petitioners. The petitioners are willing to surrender before the learned Magistrate but they apprehend that the learned Magistrate may not consider their applications for bail on merits in accordance with law and expeditiously. It is, in these circumstances prayed that appropriate directions may be issued under Section 482 Cr.P.C.

2. I find no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application

for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioners.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006